

Anthony RUCANO 11A0528  
 Attica Correctional Facility  
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 Attica, N.Y. 14011-0149  
 July 18<sup>th</sup>, 2017

Honorable Janet DiFiore  
 Chief Judge of the Court of Appeals  
 Court of Appeals Hall  
 20 Eagle street  
 Albany, New York 12207-1095

Re: People v. Anthony RUCANO, 2011-01960  
 Request For Extension of Time AND  
 Synopsis of MY Case

Your Honor,

I received a letter from Chief Clerk Asiello dated July 14<sup>th</sup>, 2017, stating that MY Leave Application from Writ of Error Coram Nobis denied by the 2<sup>nd</sup> Dept. on April 12<sup>th</sup>, 2017, was being heard by Your Honor. This missive serves to first, request an extension of time to prepare and file Leave Application, and secondly, to provide you with a brief synopsis of MY case and the relevant procedural history, as well as highlighting points deserving special attention.

Due to high security here at Attica, I have very restricted access to the law library even with special access (~~unlimited~~ 7-8 hours per week), which will inhibit MY ability to research, prepare and file MY brief in just 3 weeks. As such, I respectfully request an extension of time of an additional 3 weeks until August 25<sup>th</sup>, 2017 to prepare and submit MY Leave Application.

Deputy Clerk Heather Davis, in a letter dated June 21<sup>st</sup>, 2017, responded to MY June 12<sup>th</sup>, 2017 letter to Chief Clerk Asiello and informed me that the papers I submitted for leave to appeal from the MAY 19<sup>th</sup>, 2014 Order of the 2<sup>nd</sup> Dept., which sought to withdraw Appellate Counsel's Brief and assign a new attorney were retained in the court's files and would be forwarded to the judge assigned to this leave application. As such, I wanted to insure that Your Honor has received said papers and briefly explain how they are incorporated into the foundational argument asserted in MY leave to appeal of this Writ of Error Coram Nobis.

MY Writ of Error Coram Nobis was submitted in two parts, each with its own affidavit, exhibits and memorandum of law, and incorporates the motion to withdraw Appellate Counsel's Brief (Appendix "B") as the foundation for asserting Appellate Counsel's failures. The summary denial of MY Writ of Error Coram Nobis by the 2<sup>nd</sup> Dept. has led me to present the following question to the court which cuts straight to MY foundational argument; "Whether an Appellate Counsel's failure to assemble a complete record on appeal, in order to fully investigate and determine the appropriate Appellate procedures to advance ineffective assistance of trial counsel claims ("IATC"), amounts to ineffective assistance of Appellate Counsel." ("IAAC").

I asked the 2<sup>nd</sup> Dept. to first consider the supplemental affidavit and memorandum of law before the main affidavit and memorandum of law, as it formed the foundation of Appellate Counsel's failures on numerous levels. In the main applications I asked the 2<sup>nd</sup> Dept. to have Appellate Counsel provide his strategic and tactical rationale prior to the resolution of MY entire application.



Your Honor, considering the above, how do the holdings of this Court rendered in People v. EVANS, reflect the 2<sup>nd</sup> Dept. relying on a firmly established state Procedural rule that is regularly applied in this State when it denied me relief at multiple Procedural Points in my case? (Denial of Leave to Appeal of Article 440, Motion to Withdraw Appellate Counsel's Brief and Denial of Writ of Error Coram Nobis).

Furthermore, how do the numerous mixed and record based claims of IATC that Appellate Counsel failed to raise, which were asserted by me in my Writ of Error Coram Nobis; not provide substantial and meritorious claims that Appellate Counsel Warren Landau was ineffective when (A) 2 of the 3 claims of IATC that Appellate Counsel did raise were unpreserved for Appellate review (Appendix "A"), (B) The record before this Court substantiates that Appellate Counsel received direct and specific ~~affirmed~~ notice of record or partially record based claims of IATC in the form of affidavits from multiple experts and transcripts that he failed to investigate to determine their viability, and other records provided to him by the Appellant (Motion to Withdraw Appellate Counsel's Brief, Appendix "B"), and, most importantly (C) Appellate Counsel failed to assemble a complete record on appeal in order to investigate, then determine the viability of any claims within, so he could then, and only then, render a tactical or strategic decision on the appropriate Appellate Procedures that he needed to use to properly and effectively challenge said claims?

Food for Thought... On June 9<sup>th</sup>, 2016, through FOIL I received a copy of the contract between the City of New York and Appellate Advocates, from Associate Counsel Molly Cohen of the NYC Mayor's Office of Criminal Justice, which provided \$10,595,000 in City Tax Levy Funds to pay for "Criminal defense Appellate services for indigent defendants in the 2<sup>nd</sup> Dept. of the Appellate Division, Appellate Term and New York Court of Appeals" between July 1<sup>st</sup>, 2015 and June 30<sup>th</sup>, 2017, for up to 500 annual assignments.

Appendix "B", Scope of Work, "1" Assignments, Subsection (b) of that contract clearly states "Assignments shall include all proceedings required to fully and competently represent contractors clients, including additional matters assigned to contractor, such as 440 motions, habeas corpus petitions and Article 78 motions." As such, I submit that Appellate Advocates, in the narrowly defined and unique circumstances of my case, was in breach of that contract.

I respectfully request that this Honorable Court examine the four corners of the record before it, as within them lie the truth and justice I seek. Only with the help of trained, competent and experienced counsel can I present the meritorious claims within in the proper context and form, and in a clear and concise manner. That would only occur if this Court grants my Leave Application so that this matter can be fully briefed.

I am seeking the help of Micah Horwitz, a Juris Doctor Candidate at Columbia Law School for assistance, who published "An Appealing Extension: Extending Martinez v. Ryan to claims of Ineffective Assistance of Appellate Counsel", 116 Columbia Law Review 1299 (June 2016), as it relates to and provides unique insight into the circumstances of my case. I'm also contacting law firms known to provide pro-bono representation on select cases.

As it takes one week for me to get extended Access to law library after I Provide A letter from this Court showing I have A deadline; I respectfully request A decision AND reply ON MY request for AN extension At the Courts earliest convenience.

God Bless this Court. I look forward to Your response for AN extension of time to file MY Leave Application, AND I thank the Court IN ADVANCE for its time AND consideration of MY Leave Application.

Most Respectfully Yours,

Anthony Rucano

ANTHONY RUCANO, ILA0528

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